

REMARKS

Claims 1-18 are pending in the application. Claims 16-18 are withdrawn from consideration. Claims 1-15 stand rejected. Claim 1 and 16 are independent claim.

Figure 3 stands objected because it is not easily discernible. In response, the Applicant provides a clearer Figure 3.

Claim 1 stands rejected under 35 U.S.C '102(e), as allegedly being anticipated by Konstadinidis *et al.* (U.S. Pub. 2005/0184411) ("Konstadinidis"). Claim 1 recites, *inter alia*, "a hollow cylindrical tube containing the transmission medium therein, the tube having a plurality of recesses on an outer circumferential surface."

According to the United States Court of Appeals for the Federal Circuit, a claim is anticipated **only if a single prior art reference set forth, either expressly or inherently, all features recited in the claim** (*Verdegaal Bros. v. Union Oil Co. of CA*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); see also MPEP 2131), **including those in functional language** ((*In re Schreiber*, 128 F.3d 1473, 1478, 44 USPQ.2d 1429 (Fed. Cir. 1997) (holding that the patent applicant is free to recite features of an apparatus claim in functional language as long as such features are not inherent to the prior art)).

In the present case, the Office Action indicates that each microduct 12 contained in the optical fiber cable disclosed in Figure 1 of Konstadinidis is equivalent to the recess recited in claim 1. As such, the Office indicates Konstadinidis set forth the hollow cylindrical tube of claim 1 and the hollow cylindrical tube does not patentably distinguish claim 1 from Konstadinidis.

Konstadinidis, as read by the Applicant, discloses two types of cable. Konstadinidis discloses (1) an optical fiber cable containing a plurality of microducts 12 and (2) a microduct cable 13 contained in each microduct 12 of the optical fiber cable (Figure 1 and 2).

Amendment

Serial No. 10/824,302

However, neither one of the disclosed cables has a plurality of recesses on its outer circumferential surface. In particular, Konstandinidis does not disclose whether the microduct cable 13 contains a recess. Meanwhile, Konstandinidis discloses that the microducts 12 are contained in the inner portion of the optical cable (id.).

Therefore, Kostadinidis fails to set forth at least “a hollow cylindrical tube containing the transmission medium therein, the tube having a plurality of recesses on an outer circumferential surface,” as recited in claim 1. The Applicant respectfully submits that Koatadinidis fails to anticipate claim 1; thus, the Applicant respectfully requests withdrawal of the rejection.

Other claims in this application are each dependent on the independent claim 1 and believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of the patentability of each on its own merits is respectfully requested.

A replacement figure 3 is enclosed herein to assist the Examiner in examining the application. No new matter has been added. The replacement figure 3 represents a clear picture of originally submitted FIG. 3.

Amendment
Serial No. 10/824,302

Should the Examiner deem that there are any issues which may be best resolved by telephone, please contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

Steve Cha
Registration No. 44,069

By: 
Steve Cha
Attorney for Applicant
Registration No. 44,069

Date: May 2, 2006

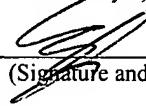
Mail all correspondence to:

Steve Cha, Registration No. 44,069
Cha & Reiter
210 Route 4 East, #103
Paramus, NJ 07652
Tel: 201-226-9245
Fax: 201-226-9246

Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 2, 2006.

Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)


(Signature and Date)